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10/607,730	06/27/2003	Roger H. Bruning	UNVN.106165	6504

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EXAMINER
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HARRIS, CHANDA L

ART UNIT	PAPER NUMBER
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3715

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/607,730	Applicant(s) BRUNING ET AL.	
	Examiner Chanda L. Harris	Art Unit 3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1-40.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/14/03</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 7 is objected to because of the following informalities: "question are" should be --question is --. Appropriate correction is required.
2. Claim 32 is objected to because of the following informalities: All acronyms must be spelled out upon first use (i.e., Hypertext Markup Language (HTML)). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 33-40 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims to computer program products per se are not statutory subject matter. On the other hand, a claim to a computer-readable medium encoded with a computer program product is a computer element which defines structural and functional interrelationships between the computer program product and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-3, 7, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kerwin (US 5,616,033).**

1. [Claim 1]: Regarding Claim 1, Kerwin discloses providing informational content relating to a subject matter (i.e., problem situations) and a question (i.e., multiple choice test) concerning said informational content to a learner. See Col.2: 43-50. Kerwin discloses receiving from said learner an answer to said question and a justification for said answer (i.e., narrative description of his proposed solution). See Col.2: 43-50. Kerwin discloses conducting an analysis involving said answer, said analysis providing at least one result and providing said at least one result to said learner in Col.2: 62-Col.3: 2:

The system then critiques the trainee selection. If the optimum solution has been selected, the system identifies the reasons why that selection is optimal before moving on to another problem situation. If the optimum solution has not been selected, the system repeats its request for identification of the optimum solution, critiquing each answer until the correct one has been selected.

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Kerwin discloses providing the answer and the justification of an expert in the field of said subject matter to said learner in Col. 2: 63-66.

If the optimum solution has been selected, the system identifies the reasons why that selection is optimal before moving on to another problem situation.

2. [Claims 2-3]: Regarding Claims 2 and 3, Kerwin discloses providing reference material (e.g., problem situation) to said learner, said reference material designed to assist the learner in forming said answer and said justification and wherein providing reference material includes providing an explanation of criteria applicable to forming said answer to said question. See Col.2: 56-62.

3. [Claim 7]: Regarding Claim 7, Kerwin discloses wherein said informational content and said question is presented as part of a first electronic page (Col.2: 51-56) and said at least one result is presented as part of a second electronic page (Col.2: 63-Col.3: 2).

4. [Claim 17]: Regarding Claim 17, Kerwin discloses a computer-readable medium having computer-executable instructions (e.g., compact disk input). See Col.4: 8-13.

"For performing the method recited in claim 1" is considered to be a statement of intended use that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure and thereby, does not limit the scope of a claim or claim limitation.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4-6 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerwin in view of Scheirer (US 2002/0055089).**

1. [Claim 4]: Regarding Claim 4, Kerwin does not disclose expressly wherein said reference material includes an electronic link to a Web site containing background information concerning said subject matter (e.g., videos). However, Scheirer discloses such on p.8, [0076]-[0077]. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into Kerwin's invention, in light of the teaching of Scheirer, in order to provide computer-assisted instruction.

2. [Claims 5-6,15-16]: Regarding Claims 5-6 and 15-16, Kerwin does not disclose expressly storing said answer and said justification on a computer storage media or wherein said storing is accomplished by saving said answer and said justification in a database. However, Scheirer discloses such on p.5, [0051]:

For example, if a given user provides an answer to one of the questions provided during the best practices survey that matches a predetermined "best" answer to that particular question, then the disclosed system may operate to store one or more answers to together questions received from that given user as "baseline" information at step 45.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into Kerwin's invention, in light of the teaching of Scheirer, in order to gather baseline information.

**Claims 8, 18-19, 23-27, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerwin in view of Kerwin (US 2001/0036619).**

1. [Claims 8,18]: Regarding Claims 8 and 18, Kerwin does not disclose expressly wherein said analysis is a statistical analysis. However, '619 discloses such (i.e., number of keywords) on p.2, [0019].
2. [Claim 19]: Regarding Claim 19, Kerwin discloses providing reference material (e.g., problem situation) to said learner, said reference material designed to assist the learner in forming said answer and said justification and wherein providing reference material includes providing an explanation of criteria applicable to forming said answer to said question. See Col.2: 56-62.
3. [Claim 23]: Regarding Claim 23, Kerwin discloses a progress report module operable to provide said learner with information indicative of said learner's progress through said informational content and said questions (i.e., critiquing each answer until the correct one has been selected). See Abstract.
4. [Claim 24-27]: Regarding Claim 24, Kerwin discloses an author interface operable to provide a connection between an author and said system; a features module operable to receive feature selections from said author and to store said selections; a learner feedback module operable to allow the author to select the

information that the system will provide to said learner concerning said learner's answers and justifications; a data reporting module that is operable to allow the author to determine the information he or she will receive concerning the learners' answers and justifications. See Col.2: 51-56

5. [Claims 29-30]: Regarding Claims 29 and 30, Kerwin/'619 does not disclose expressly wherein said analysis module is a spreadsheet application and wherein said analysis module is operable to perform statistical analysis. However, Examiner takes official notice that using a spreadsheet application as an analysis module to perform a statistical analysis is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a spreadsheet application as an analysis module into Kerwin/'691's invention, in order to facilitate information analysis.

6. [Claim 31]: Regarding Claim 31, Kerwin discloses wherein said informational content and said question is presented as part of a first electronic page (Col.2: 51-56) and said at least one result is presented as part of a second electronic page (Col.2: 63-Col.3: 2).

**Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerwin/'619 as applied to claim 8 above, and further in view of Remschel (US 6,141,529).**

[Claims 9,10]: Regarding Claims 9 and 10, Kerwin/'619 does not disclose expressly wherein said at least one result includes the distribution of all learners to said question



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and wherein said at least one result includes the average of all learner answers to said question. However, Remschel teaches such in Col.15: 1-5:

The dialogue also includes a "CLASS SUMMARY" which identifies the correct answer, the response ratio and the correct response ratio of each of the questions, as well as the class average.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into Kerwin/'619's invention, in light of the teaching of Remschel, in order to provide a class summary of learner responses.

**Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerwin in view of Ho et al. (US 6,160,987).**

[Claims 11-14]: Regarding Claims 11-14, Kerwin does not disclose expressly allowing said learner to interact with the answers and justification of other learners for said question; wherein said interaction includes displaying the answers and justifications of other learners for said questions. However, Ho teaches such in Col.10: 1-6:

Users can exchange, for example, conversation through a microphone; text through keyboard inputs; drawings through a drawing utility, such as a pointing device or a digitizing board; and video images or non-verbal communication through a digital camera, or motion detecting devices.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into Kerwin's invention, in light of the teaching of Ho, in order to facilitate communication between learners about a question. Kerwin does not disclose expressly wherein said interaction

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includes receiving a comment from said learner relating to another learner's justification and sending said comment to said other learner. Kerwin does not disclose expressly wherein said interaction includes receiving a comment from said learner relating to another learner's justification and sending said comment to said other learner, wherein said comment is sent by e-mail. However, Ho teaches the concept of e-mail communication between learners in Col.19: 54-57.

Christine, Shirley, Joe and Tom will receive her information, which again can be through electronic mails.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into Kerwin's invention, in light of the teaching of Ho, in order to facilitate communication.

**Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerwin/'619 as applied to claim 18 above, and further in view of Ho (US 6,160,987).**

[Claims 20-22]: Regarding Claims 20-22, Kerwin does not disclose expressly allowing said learner to interact with the answers and justification of other learners for said question; wherein said interaction includes displaying the answers and justifications of other learners for said questions. However, Ho teaches such in Col.10: 1-6:

Users can exchange, for example, conversation through a microphone; text through keyboard inputs; drawings through a drawing utility, such as a pointing device or a digitizing board; and video images or non-verbal communication through a digital camera, or motion detecting devices.

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Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into Kerwin's invention, in light of the teaching of Ho, in order to facilitate communication between learners about a question. Kerwin does not disclose expressly wherein said interaction includes receiving a comment from said learner relating to another learner's justification and sending said comment to said other learner. Kerwin does not disclose expressly wherein said interaction includes receiving a comment from said learner relating to another learner's justification and sending said comment to said other learner, wherein said comment is sent by e-mail. However, Ho teaches the concept of e-mail communication between learners in Col.19: 54-57.

Christine, Shirley, Joe and Tom will receive her information, which again can be through electronic mails.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into Kerwin's invention, in light of the teaching of Ho, in order to facilitate communication.

**Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerwin/'619 as applied to claim 18 above, and further in view of Scheirer.**

[Claim 28]: Regarding Claim 28, Kerwin does not disclose expressly storing said answer and said justification on a computer storage media or wherein said storing is accomplished by saving said answer and said justification in a database. However, Scheirer discloses such on p.5, [0051]:

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For example, if a given user provides an answer to one of the questions provided during the best practices survey that matches a predetermined "best" answer to that particular question, then the disclosed system may operate to store one or more answers to together questions received from that given user as "baseline" information at step 45.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into Kerwin's invention, in light of the teaching of Scheirer, in order to gather baseline information.

**Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerwin/'619 as applied to claim 18 above, and further in view of Ziv-El (US 6,302,698).**

[Claim 32]: Regarding Claim 32, Kerwin/'619 does not disclose expressly wherein at least one of said modules contains HTML instructions (i.e., documents). However, Ziv-El teaches the use of HTML instructions in a learning environment. See Col.8: 35-37. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into Kerwin/'619's invention, in light of the teaching of Ziv-El, in order to enable use of the invention on the World Wide Web.

**Claims 33-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerwin/Scheirer in view of Ho et al.**

1. [Claims 33-39]: Regarding Claims 33-39, Kerwin/Scheirer does not disclose

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expressly the transmission of information in the context as recited in the claims.

However, Ho teaches such as is addressed in rejections above. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the transmission of information in the context as recited in the claims into Kerwin/Scheirer's invention, in light of the teaching of Ho, in order to provide computer-aided group learning.

2. [Claim 40]: Regarding Claim 40, Kerwin/Scheirer/Ho does not disclose expressly obtaining data related to site usage or site performance and transmitting said data to a second client computer. However, Examiner takes official notice that obtaining such metrics are old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate obtaining such metrics into Kerwin/Scheirer/Ho's invention, in order to assess site efficiency.

### ***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Block et al. (US 6,305,942)
  - critical thinking
- Schwartz (US 5,951,297)
  - critical thinking skills
- Linden Henry (US 6,361,322)
  - higher-level thinking skills

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Chanda L. Harris  
Primary Examiner  
Art Unit 3715